

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In the matter of:

Case No. 95-48268

MTG, Inc.,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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**ORDER GRANTING IN PART, AND DENYING IN PART,  
TRUSTEE'S MOTION FOR DISGORGEMENT  
OF FEES, ETC. (DOCKET # 1506)**

This case came before the Court on the motion filed by Guy C. Vining, Trustee, entitled "Trustee's Motion for Entry of Order Enforcing Amended Order re Consolidated Motion to Disgorge Fees and Finding Charles J. Taunt, Charles J. Taunt & Associates, and Plunkett & Cooney, P.C. in Contempt of Court" (Docket # 1506, the "Disgorgement/Contempt Motion"). The Court held a hearing on April 14, 2010. For the reasons stated by the Court on the record during the April 14, 2010 hearing,

IT IS ORDERED that:

1. The Disgorgement/Contempt Motion (Docket # 1506) is granted to the extent of the relief provided by this Order, and otherwise is denied.

2. No later than April 30, 2010, Plunkett & Cooney, P.C. must pay to Guy C. Vining, Trustee, the sum of \$29,888.00. Such payment is to return to the bankruptcy estate in this case the attorney fees that were paid to Plunkett & Cooney, P.C. by Charles J. Taunt, Trustee on or

about January 27, 1997 (\$17,637.50) and on or about August 18, 1997 (\$12,250.50), under the Court's orders filed on January 22, 1997 and on August 11, 1997 (Docket ## 548 and 595).<sup>1</sup>

3. No later than April 30, 2010, Charles J. Taunt & Associates must pay to Guy C. Vining, Trustee, the sum of \$12,170.50. Such payment is to return to the bankruptcy estate in this case the attorney fees that were paid to Charles J. Taunt & Associates by Charles J. Taunt, Trustee on or about January 27, 1997, under the Court's order filed on January 22, 1997 (Docket # 548).<sup>2</sup>

4. The Court declines to order, at this time, that either Charles J. Taunt & Associates or Plunkett & Cooney, P.C. pay to the bankruptcy estate either (a) the fees paid on or about May 29, 1996 to Charles J. Taunt & Associates in the amount of \$1,330.00; or (b) the fees paid on or about December 23, 1996 to Plunkett & Cooney, P.C. in the amount of \$2,282.50.<sup>3</sup> After reviewing the orders that appear to have authorized Taunt, Trustee to make these two fee payments, filed on April 9, 1996 and on August 13, 1996 (Docket ## 409, 480), the Court concludes that these fee payments are of the type that Judge Hughes intended to exclude from the repayment obligation contained in his Amended Order filed July 29, 2004 (Docket # 1252). As a result, the Court will not order that these fees be repaid to the bankruptcy estate at this time, for the reasons stated on the record by the Court during the April 14, 2010 hearing.

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<sup>1</sup> See the "Form 2" record ("Form 2") that is attached as part of Taunt, Trustee's "Final Report to Successor Trustee," filed November 16, 2000 (Docket # 718)(a highlighted copy of which is attached as Exhibit D to the Disgorgement/Contempt Motion (Docket # 1506).

<sup>2</sup> See Form 2.

<sup>3</sup> See Form 2.

5. If and to the extent the sums referred to in paragraphs 2 and 3 of this Order are not paid on or before April 30, 2010, the unpaid portion of such sums will bear interest from April 30, 2010, at the applicable federal rate as of April 30, 2010, under 28 U.S.C. § 1961(a) and (b).

6. If and to the extent the sums referred to in paragraphs 2 and 3 of this Order are not paid on or before April 30, 2010, then Guy C. Vining, Trustee may immediately thereafter (or later) seek to collect all such unpaid sums under this Order, including the interest provided for in paragraph 5 of this Order, in either or both of the following ways: (1) as he could collect an unpaid money judgment issued by this Court; and (2) through one or more civil contempt motions.

7. This Order does not determine the extent, if any, to which Charles J. Taunt may be personally liable, under any non-bankruptcy law claim or theory that is not alleged in Guy C. Vining, Trustee's complaint filed in the pending adversary proceeding (Docket # 1 in Case No. 03-4950), to pay any sums that Charles J. Taunt & Associates is required to pay under this Order.<sup>4</sup>

8. This Order does not determine the extent, if any, to which Plunkett & Cooney, P.C. may be liable to pay any sums that Charles J. Taunt & Associates is required to pay under this Order.

9. This Order is without prejudice to any claim(s) that Guy C. Vining, Trustee may have in the pending adversary proceeding (Case No. 03-4950) seeking to hold any party, including Charles J. Taunt, Charles J. Taunt & Associates, Plunkett & Cooney, P.C., and Comerica Bank,

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<sup>4</sup> Any such claim or theory that is alleged in the complaint in the pending adversary proceeding may be pursued in the adversary proceeding, and this Order does not prejudice any such claim or theory.

liable to pay to the bankruptcy estate (a) any of the sums referred to in the Disgorgement/  
Contempt Motion as the “Secret Fee Payments;”<sup>5</sup> or (b) any of the sums referred to in paragraphs  
2 through 5 of this Order.

**Signed on April 16, 2010**

**/s/ Thomas J. Tucker**  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**

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<sup>5</sup> See the Disgorgement/Contempt Motion (Docket # 1506) at 2 ¶ 4.